

4

6

15/

IN THE HIGH COURT OF JUDICATURE AT BILASPUR

CHHATTISGARH

Division Bench

M.A.(C) NO. 218 /2007

APPELLANTS
CLAIMANTS

P.R. No. 477/07
Presented by Shri. G.P. Lahore
dated 08/2/07

1. ✓ Sunder Lal,
S/O. Girjaram,
Aged 45 years,
2. ✓ Rajkumari,
W/O. Shri Sunder Lal,
aged about : 42 years,
3. ✓ Rishi Kumar,
Wd/O. Deepak,
Aged about : 22 years,
4. ✓ Omkumari,
Wd/O. Deepak,
Aged about : 21 years,
5. ✓ Bhuvneshwari,
D/O. Deepak Kumar,
Aged about : 4 years,
Through : Legal guardian her mother
Rishi Kumari, Wd/O. Deepak

5

2

All are by Caste : Patel,

All are R/O. Village : Sendripali,

Police Station : Bhupdeopur,

Tahsil : Kharsia,

District : Raigarh (C.G.)

VERSUS

RESPONDENTS

1. Keshdhar Pal,

S/O. Ramdas Pal,

Aged about : 30 years,

R/O. : Village : Nataipur,

Distt : Bhadoe (U.P.)

(Driver of the offending Vehicle)

2. Sunil Agrawal,

S/O. Gopal Agrawal,

Aged about : 39 years,

R/O. : Sunil Transport Service-75

/B, Amar Mahal, Tilak Nagar,

Chembur, Mumbai (M.S.)

(Owner of the offending Vehicle)

3 The New India Insurance Co. Ltd.

Mumbai,

Through : New India Insurance Co.

Raigarh,

Distt. : Raigarh (C.G.)

(Insurer of the offending Vehicle)

APPEAL UNDER SECTION 173 OF MOTOR VEHICLE ACT.

FOR ENHANCEMENT OF AWARD DATED 30.10.2006

23

HIGH COURT OF JUDICATURE CHHATTISGARH : BILASPUR
DIVISION BENCH

CORAM : HON'BLE SHRI H.L. DATTU, CJ &
HON'BLE SHRI V.K. SHRIVASTAVA, J.

MISC. APPEAL (C) NO. 218 OF 2007

APPELLANTS

Sunder Lal & Others

Versus

RESPONDENTS

Keshdhar Pal & Others

Present : Shri P.K. Patel, Counsel for the appellants.
None for the respondents.

ORAL ORDER
(Passed on 19th February, 2007)

The following oral order of the Court was passed by
Vijay Kumar Shrivastava, J.

This is an appeal filed by appellants/claimants under Section 173 of the Motor Vehicles Act, 1988 (henceforth "the Act, 1988") for enhancement of compensation against the award dated 30-10-2006 passed by First Additional Motor Accident Claims Tribunal, Raigarh, (henceforth "the Tribunal") in Claim case No.50 of 2006, whereby appellants have been awarded a compensation of Rs.4,48,000/-.

2) The factual matrix of the case, in brief, is that on 24-8-2005 at about 4.15 pm Deepak Kumar Patel (since deceased) was going to Kurru Bhata by his motorcycle bearing registration No.CG-13-E-2243 on the way respondent No.1 Keshdhar Pal (driver) driving the truck tanker bearing registration NL-01-A-7208 (henceforth "the offending vehicle") in a rash and negligent manner dashed the motorcycle, resultantly Deepak Kumar Patel sustained injuries and succumbed to those.



3) Appellants for award of compensation claiming themselves to be legal representatives of the deceased Deepak Kumar Patel filed an application under Section 166 of the Act, 1988 against the driver, owner and insurers of the offending vehicle. They are respondents No.1, 2 and 3 herein respectively.

4) Respondents No.1 and 2 remained *ex parte* and did not contested the claim whereas respondent No.3/Insurance Company contested the claim.

5) Learned Tribunal after evaluating the evidence awarded compensation in favour of the appellants as below :

S.No.	Head	Amount
1.	Dependency	4,08,000=00
2.	Medical Expenses/ Transportation	5,000=00
3.	Funeral Expenses	5,000=00
4.	Loss of Estate	5,000=00
5.	Consortium	10,000=00
6.	Love and affection	15,000=00
Total		4,48,000=00

6) Learned counsel for the appellant contended that the income of the deceased was not assessed properly and towards funeral expenses and loss of estate sufficient amounts have not been awarded by the Tribunal.

7) We have gone through the record. There is no legal evidence to prove the monthly income of the deceased, however, Tribunal accepted Rs.3,000/- per month towards his income and accordingly by applying correct multiplier assessed the loss of dependency Rs.4,08,000/- and sympathetically allowed an amount of Rs.5,000/- towards funeral expenses and an amount of Rs.5,000/- towards loss of estate.



8) In view of the above, we are of the considered opinion that the findings recorded by the Tribunal is neither perverse nor illegal, which may call for any interference, therefore, the appeal being devoid of substance deserves to be dismissed and is accordingly dismissed in limine. No costs.

Sd/-
Chief Justice

Sd/-
V.K. Shrivastava
Judge

Gowri